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REMARKS

Claims 1-21 are pending. Claims 8, 9, 18, 19 and 21 stand rejected under 35 U.S.C. §112, first paragraph, as being indefinite. Claims 1-3, 5, 6 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,829,655 to Salopek ("Salopek") in view of U.S. Patent No. 5,611,287 to Begley ("Begley"). Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Salopek in view of U.S. Patent No. 3,934,771 to Eberhard ("Eberhard"). Claims 7 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,829,655 to Salopek ("Salopek") in view of U.S. Patent No. 6,401,995 to Yuille et al. ("Yuille"). Claims 1-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 2,898,146 to Yudenfreund ("Yudenfreund") in view of U.S. Patent Application Publication No. 2002/0070574 to Carlsson et al. ("Carlsson").

Applicant has amended Claims 8, 9, 18, 19 and 21 as indicated above to overcome the rejections under 35 U.S.C. §112. Applicant respectfully traverses the rejections under 35 U.S.C. §103 for at least the reasons set forth below.

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§112 Rejections Are Overcome

The Action states that Claims 8, 9, 18, 19 and 21 are rejected under 35 U.S.C. §112, first paragraph, as being indefinite. Applicant has amended Claims 8, 9, 18, 19 and 21 as indicated above to overcome the indefinite rejections. Specifically, Claims 8 and 9 have been amended to depend from Claim 2 and Claims 18, 19 and 21 have been amended to depend from Claim 12. Accordingly, the indefinite rejections under 35 U.S.C. §112, second paragraph, are overcome.

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§103 Rejections Are Overcome

A determination under §103 that an invention would have been obvious to someone of ordinary skill in the art is a conclusion of law based on fact. *Panduit Corp. v. Dennison Mfg. Co.* 810 F.2d 1593, 1 U.S.P.Q.2d 1593 (Fed. Cir. 1987), *cert. denied*, 107 S.Ct. 2187. After the involved facts are determined, the decision maker must then make the legal determination of whether the claimed invention as a whole would have been obvious to a person having ordinary skill in the art at the time the invention was unknown, and just before it was made. *Id.* at 1596. The United States Patent and Trademark Office (USPTO) has the initial burden under § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

To establish a *prima facie* case of obviousness, the prior art reference or references when combined must teach or suggest *all* the recitations of the claims, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. M.P.E.P. § 2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. § 2143.01 (citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990)). As emphasized by the Court of Appeals for the Federal Circuit, to support combining references, evidence of a suggestion, teaching, or motivation to combine must be **clear and particular**, and this requirement for clear and particular evidence is not met by broad and conclusory statements about the teachings of references. *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). In an even more recent decision, the Court of Appeals for the Federal Circuit has stated that, to support combining or modifying references, there must be **particular** evidence from the prior art as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

Furthermore, as recently stated by the Federal Circuit with regard to the selection and combination of references:

This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority. It is improper, in determining

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whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher." W.L. Gore v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983). Thus the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion....

In re Sang Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002).

Applicant's amended independent Claim 1 is directed to a collapsible cargo storage apparatus for a vehicle interior that has a seat with a seating area and a seat back for supporting an occupant. The seating area has a generally concave, sloping contour. Claim 1 specifically recites a cargo management system that comprises:

a base configured to be supported by the seating area of the seat, wherein the base comprises opposite upper and lower surfaces, opposite front and rear portions, and opposite side portions, and wherein *the base lower surface has a generally convex, sloping contour that matingly engages the generally concave, sloping configuration of the seating area contour in contacting relationship*, wherein the base lower surface contour helps retain the storage apparatus on the seating area and reduces the likelihood of the storage apparatus moving during vehicle movement;

a front panel pivotably attached to the base front portion via a hinge; and

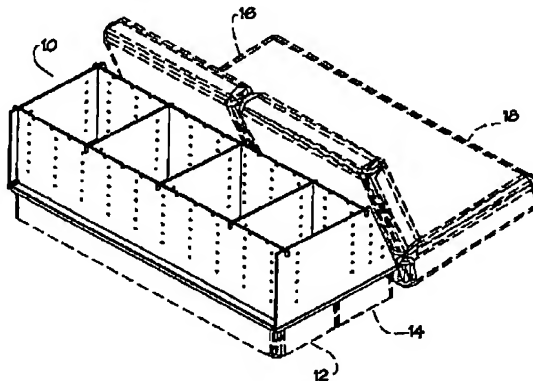
a rear panel pivotably attached to the base rear portion via a hinge;

wherein the front and rear panels are each movable between a stored position and an operative position, wherein the front and rear panels extend generally perpendicular to the base for constraining motion of articles disposed on the base upper surface when in the operative position, wherein the front and rear panels overlie the base upper surface in a flat configuration when in the stored position, and *wherein the rear panel is in contacting relationship with the seat back when in the operative position.*

Neither of the primary references, Salopek or Yudenfreund, teach or suggest an apparatus having a base with a lower surface that has a convex, sloping contour that matingly engages a concave, sloping configuration of the seating area of a seat.

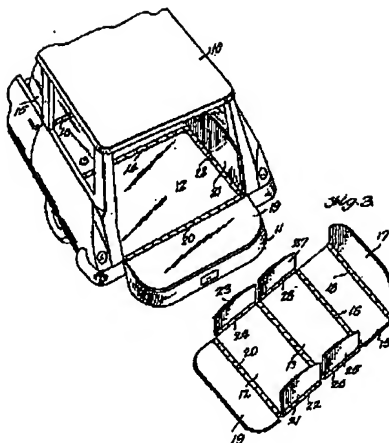
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For example, the apparatus of Salopek, illustrated below, mounts on the horizontally oriented metallic back supports of the folded down jump seats of an extended cab truck. The bottom panel of the Salopek apparatus does not have a convex, sloping contour that matingly engages a convex, sloping configuration of an occupant seating area. Moreover, there is no discussion or suggestion in Salopek that the Salopek apparatus bottom panel should have a convex contour configured to matingly engage a concave contour of the back supports of folded down jump seats. Salopek simply discusses placing the apparatus on folded down jump seats.

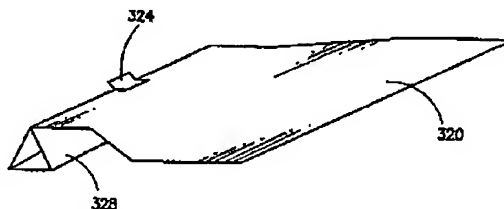


The Yudenfreund apparatus, illustrated below, mounts on the cargo deck of a station wagon. The bottom panels of the Yudenfreund apparatus do not have convex, sloping contours that matingly engage the convex, sloping configuration of occupant seating areas. Moreover, there is no discussion or suggestion in Yudenfreund that the Yudenfreund apparatus bottom panels should have a convex contour configured to matingly engage a concave contour of the cargo deck of a station wagon. Yudenfreund simply discusses placing the apparatus on a cargo deck.

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None of the secondary references provide or suggest the missing teachings of the primary references. One secondary reference, Begley, describes a leveling device formed from a single sheet of foldable cardboard which is used to convert an automobile seat into a flat horizontal surface. The Begley apparatus is illustrated below.



The illustrated Begley apparatus has a prism-shaped leg 328 that is configured to maintain the apparatus 320 in a horizontal orientation. The prism-shaped leg 328 does not have a convex, sloping contour that matingly engages a convex, sloping configuration of an occupant seating area.

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Moreover, none of the primary or secondary references even recognize the problem solved by Applicant's invention, *i.e.*, that an apparatus disposed on the seating area of a seat can move during vehicle movement. As such, there is no teaching or suggestion of ways to solve this unrecognized problem in the primary and secondary references.

Neither of the primary references, Salopek or Yudenfreund, teach or suggest an apparatus having a rear panel that is in contacting relationship with the seat back when in the operative position. None of the secondary references provide or suggest the missing teachings of the primary references.

Accordingly, Applicants respectfully request withdrawal of the present rejections under 35 U.S.C. §103.

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Other Claims Are Independently Patentable

Claim 3 is patentable by virtue of its dependence on patentable independent Claim 1 as described above. In addition, Claim 3 recites a base lower surface that comprises *a plurality of elongated, convex ribs in spaced-apart relationship*. None of the primary or secondary references, alone or in combination, teach or suggest a plurality of elongated, convex ribs in spaced-apart relationship. As such, Applicant respectfully submits that Claim 3 is independently patentable. For at least the same reason, Claim 13 is independently patentable.

In view of the above, it is respectfully submitted that this application is in condition for allowance, which action is respectfully requested.

Respectfully submitted,

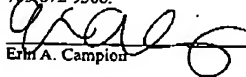


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